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September 20, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

VIA HAND DELIVERY

William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

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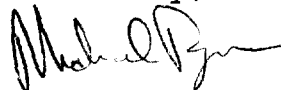
Re: Petition for Rule Making
Amendment of Section 73.606(b), Table of Allotments
Television Broadcast Stations
Helena, Montana

Dear Mr. Caton:

On behalf of KFBB Corporation, we hereby file a petition for rule making to amend Section 73.606(b) of the Commission's Rules, Table of Allotments, Television Broadcast Stations, by dereserving Channel *13, Helena, Montana.

An original and four copies of the petition for rule making are enclosed. Should there be any questions, please contact the undersigned.

Sincerely,



Michael Ruger

Enclosures

cc: John Karousos
Chief, Allocations Branch

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

RECEIVED

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Section)
73.606(b), Table of)
Allotments, Television)
Broadcast Stations (Helena,)
Montana))

RM- _____

To: The Chief, Allocations Branch

PETITION FOR RULE MAKING

1. In accord with the directions set out in Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service (Sixth Further Notice of Proposed Rule Making) in MM Docket No. 87-268, released August 14, 1996 ("Sixth Further Notice"), KFBB Corporation ("KFBB"), licensee of Station KFBB-TV, Channel 5, Great Falls, Montana, through counsel, hereby requests the Commission to initiate a rulemaking proceeding to amend the Television Table of Allotments, Section 73.606(b) of the Commission's Rules, by dereserving vacant noncommercial television Channel *15, Helena, Montana. Dereservation of Channel *15 will ultimately result in the authorization of a third commercial television service at Helena.

2. Helena is the capital of Montana and the state's fifth largest city, with a 1990 U.S. Census population of 24,569. The sole local broadcast station currently operating in Helena is Station KTVH, Channel 12, an NBC affiliate. Uhlmann/Latshaw Broadcasting, LLC, has been awarded a construction permit for

Channel 10 (File No. BPTC-941125KE), but that station is not yet in operation.

3. KFBB currently provides television reception service to Helena via its translator station K21DU. The secondary service provided by KFBB's translator is subject to displacement by full-power television services or by future digital television (DTV) allotment proposals. The residents of Helena would lose a valuable television reception service if the service provided by KFBB's translator were to be displaced. If Channel *15 is dereserved, however, KFBB will apply for that channel as a satellite of Station KFBB-TV, thereby providing the residents of Helena and surrounding communities with a permanent, full-power television service which will not be subject to displacement.

4. The dereservation of Channel *15 would constitute a change in the status of an existing allotment, rather than the allotment of a new NTSC channel to Helena. The instant proposal, therefore, is consistent with the "freeze" on accepting petitions to add new NTSC channels to the Television Table of Allotments announced in the Sixth Further Notice. Indeed, the Commission clearly contemplated the possibility that a petition may be filed to amend the Table of Allotments with respect to noncommercial allotments:

[W]e also will not accept petitions for rule making proposing to amend the existing TV Table of Allotments in Section 73.606(b) of our rules to add an allotment for a new NTSC station. Other petitions to amend the TV Table of Allotments (for example, proposing to change a station's community of license or altering the channel on which it operates, including changes in which channel allotment in a community is reserved for

noncommercial educational use) can continue to be filed
...¹

5. Dereservation of Channel 15 will not deprive Helena of the opportunity for a local noncommercial television broadcast service, as the Commission has proposed to delete vacant noncommercial television allotments in order to accommodate DTV. Sixth Further Notice at ¶ 58. If no applications for the allotment are filed by the cut-off date of September 20, 1996, the opportunity to apply for that channel as a noncommercial service will be permanently foreclosed.²

6. As the attached engineering exhibit demonstrates, the retention of NTSC Channel 15 at Helena will not disrupt the Commission's proposed DTV Table of Allotments.³

7. Furthermore, it is highly likely that a DTV allotment will be available to accommodate Channel 15. The Commission has stated that replacement DTV allotments for virtually all existing vacant noncommercial NTSC allotments could be included in the draft DTV Table of Allotments. Sixth Further Notice at ¶ 59. Given Helena's relative geographic isolation and the lack of local television transmission services, it is likely that Channel 15 would be among the channels which could be accommodated.⁴

¹Sixth Further Notice at ¶ 61.

²See Sixth Further Notice at ¶ 60.

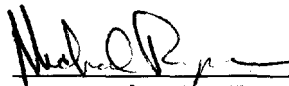
³See Engineering Exhibit of Hammet & Edison, Inc., at 1-2.

⁴See Engineering Exhibit at 2.

8. Channel 15 can be allotted to Helena at the coordinates currently reserved for Channel *15.⁵ If Channel *15 is dereserved, KFBB will file an application for commercial Channel 15 during the filing window established in accordance with the procedures outlined in the Sixth Further Notice at ¶ 61.

9. For the reasons stated above, the public interest would be served by the dereservation of Channel *15 at Helena, Montana. Therefore, KFBB Corporation requests the Commission to initiate a rulemaking proceeding to dereserve that channel.

Respectfully submitted,



Kenneth C. Howard, Jr.
Michael Ruger

Counsel to KFBB Corporation

BAKER & HOSTETLER
1050 Connecticut Avenue, N.W.
Suite 1100
Washington, D.C. 20036

Telephone: (202) 861-1500

Filed: September 20, 1996

⁵The coordinates are North Latitude 46-35-33 and West Longitude 112-02-24. See Engineering Exhibit at 1.

**KFBB Corporation
Great Falls, Montana**

**Engineering Exhibit
in Support of Petition for
Rule Making to Amend the
NTSC TV Table of Allotments
for Helena, Montana**

September 18, 1996

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Statement of Dane E. Erickson, Consulting Engineer

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by KFBB Corporation to prepare an engineering statement in support of a Petition for Rule Making to amend the NTSC TV Table of Allotments for Helena, Montana.

Proposed Change to NTSC TV Table of Allotments

KFBB Corporation ("KFBB") is the licensee of Station KFBB-TV, Channel 5, Great Falls, Montana, and also the licensee of TV Translator Station K21DU, Helena, Montana. KFBB desires to build a new TV station on the vacant National Television System Committee ("NTSC") Channel 15 allotment for Helena.¹ However, since this allotment is currently reserved as a non-commercial channel, the allotment would first have to have its non-commercial reservation deleted. In that event, I am informed that KFBB would apply for Channel 15 at Helena, Montana, as a commercial TV station, to be operated as a satellite of KFBB-TV. As shown by the attached Figure 1, a new NTSC Channel 15 TV station could be constructed anywhere within 35 kilometers of the Helena, Montana, reference coordinates without creating short-spacings to any other NTSC station, construction permit, or allotment.

Allocation Conditions

First, it is obvious that no short-spacings to other NTSC stations, permits, or allocations would be created, as only deletion of the non-commercial reservation to the Helena Channel 15 allotment is being proposed. Therefore, there will be no impact with the U.S.-Canada TV Agreement, even though the allotment is within 400 kilometers of the U.S.-Canada border (specifically, Helena, Montana, is 247 kilometers from the U.S.-Canadian border).

Second, and as shown by the attached Figure 2, Helena is not close to any of the Advanced Television ("ATV") freeze cities.²

Third, the continued existence of NTSC Channel 15 at Helena would not be inconsistent with the tentative Digital Television ("DTV") Table of Allotments proposed in the Sixth Further Notice of Proposed Rule Making to MM Docket 87-268 ("Sixth FNPRM"), even though DTV Channel 14 has been tentatively assigned to TV Station KTVH, Channel 12, Helena. This is because adjacent-channel DTV/NTSC allotments for the same community are permissible under the

¹ The reference coordinates for the Helena NTSC Channel 15 allotment are 46° 35' 33" N, 112° 02' 24" W (NAD27 datum).

² As listed in the July 17, 1987, FCC Order, "Advanced Television Systems and Their Impact on the Existing Television Broadcast Service," which created freeze zones around 30 major television markets.



New TV Station • Channel 15 • Helena, Montana

NTSC/DTV spacing requirements proposed in the Sixth FNPRM, which allows adjacent-channel NTSC and DTV stations to be located within 9.7 kilometers of each other.³ Indeed, the tentative DTV Table of Allotments provided in the recently released Sixth FNPRM has many such same-community adjacent-channel DTV/NTSC allotments; for example, the Los Angeles, California market has at least three such cases: NTSC Channel 28 would be assigned DTV Channel 27; NTSC Channel 34 would be assigned DTV Channel 35; and NTSC Channel 50 would be assigned DTV Channel 49.

Even in the event that it proves not feasible to locate the NTSC Channel 15 site within 9.7 kilometers of KTVH (or the actual DTV Channel 14 site selected by KTVH, assuming that station elects to construct DTV facilities), it is my considered professional opinion that, given the rural nature of Montana, the size of the Helena market, and its distance from any of the ATV freeze cities, that there would be no difficulty in finding an alternative DTV channel for KTVH, as well as additional DTV channels for Helena NTSC Channel 15 and for a third, noncommercial DTV station,⁴ in the event the Commission chooses to award DTV channels to post October 24, 1991, NTSC facilities in those markets where TV channel congestion is not a problem.

List of Figures

In carrying out these engineering studies, the following attached figures were prepared under my direct supervision:

1. Map showing allocation conditions for NTSC Channel 15 at Helena, Montana
2. Map showing locations of five closest ATV freeze cities to Helena, Montana.

September 18, 1996




Dane E. Ericksen, P.E.

³ Sixth FNPRM, at Paragraph 98.

⁴ Paragraph 59 of the Sixth FNPRM raises the possibility of noncommercial DTV channel allotments for vacant NTSC noncommercial allotments, and noted "...it is possible to include replacement DTV allotments for 326 of the 338 existing vacant noncommercial NTSC allotments."

Affidavit

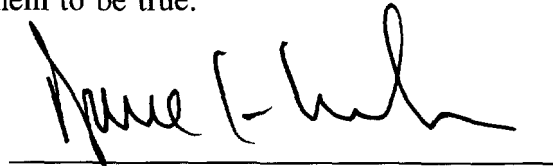
State of California

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County of Sonoma

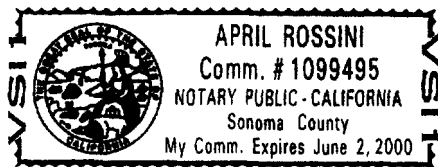
Dane E. Ericksen, being first duly sworn upon oath, deposes and says:

1. That he is a qualified Registered Professional Engineer, holds California Registration No. E-11654 which expires on September 30, 1996, and is employed by the firm of Hammett & Edison, Inc., Consulting Engineers, with offices located near the city of San Francisco, California,
2. That he graduated from California State University, Chico, in 1970, with a Bachelor of Science Degree in Electrical Engineering, was an employee of the Field Operations Bureau of the Federal Communications Commission from 1970 to 1982, with specialization in the areas of FM and television broadcast stations and cable television systems, and has been associated with the firm of Hammett & Edison, Inc., since October 1982,
3. That the firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by KFBB Corporation to prepare an engineering statement in support of a Petition for Rule Making to amend the NTSC TV Table of Allotments for Helena, Montana,
4. That such engineering work has been carried out by him or under his direction and that the results thereof are attached hereto and form a part of this affidavit, and
5. That the foregoing statement and the report regarding the aforementioned engineering work are true and correct of his own knowledge except such statements made therein on information and belief and, as to such statements, he believes them to be true.



Dane E. Ericksen, P.E.

Subscribed and sworn to before me this 18th day of September, 1996

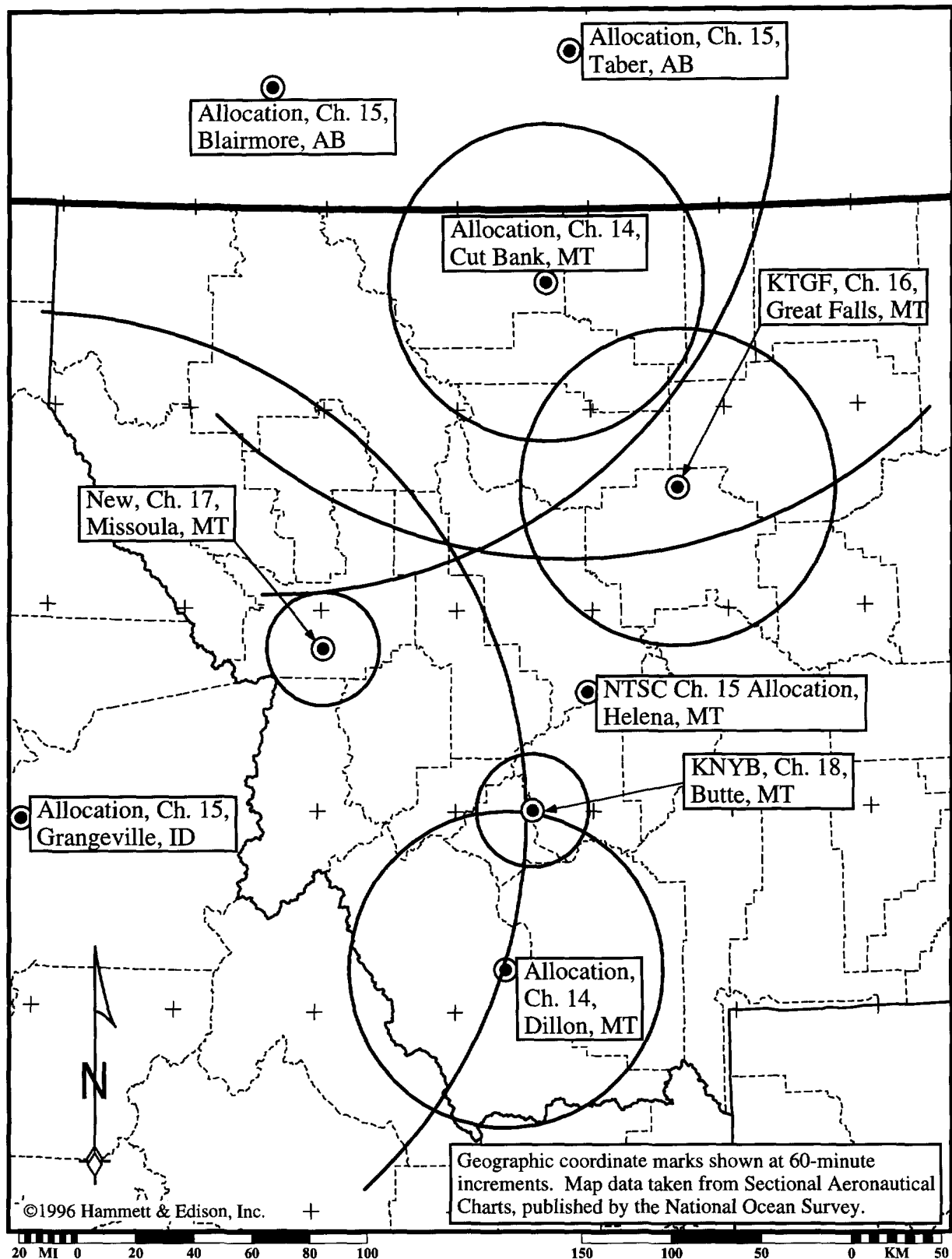


HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

960909
Affidavit

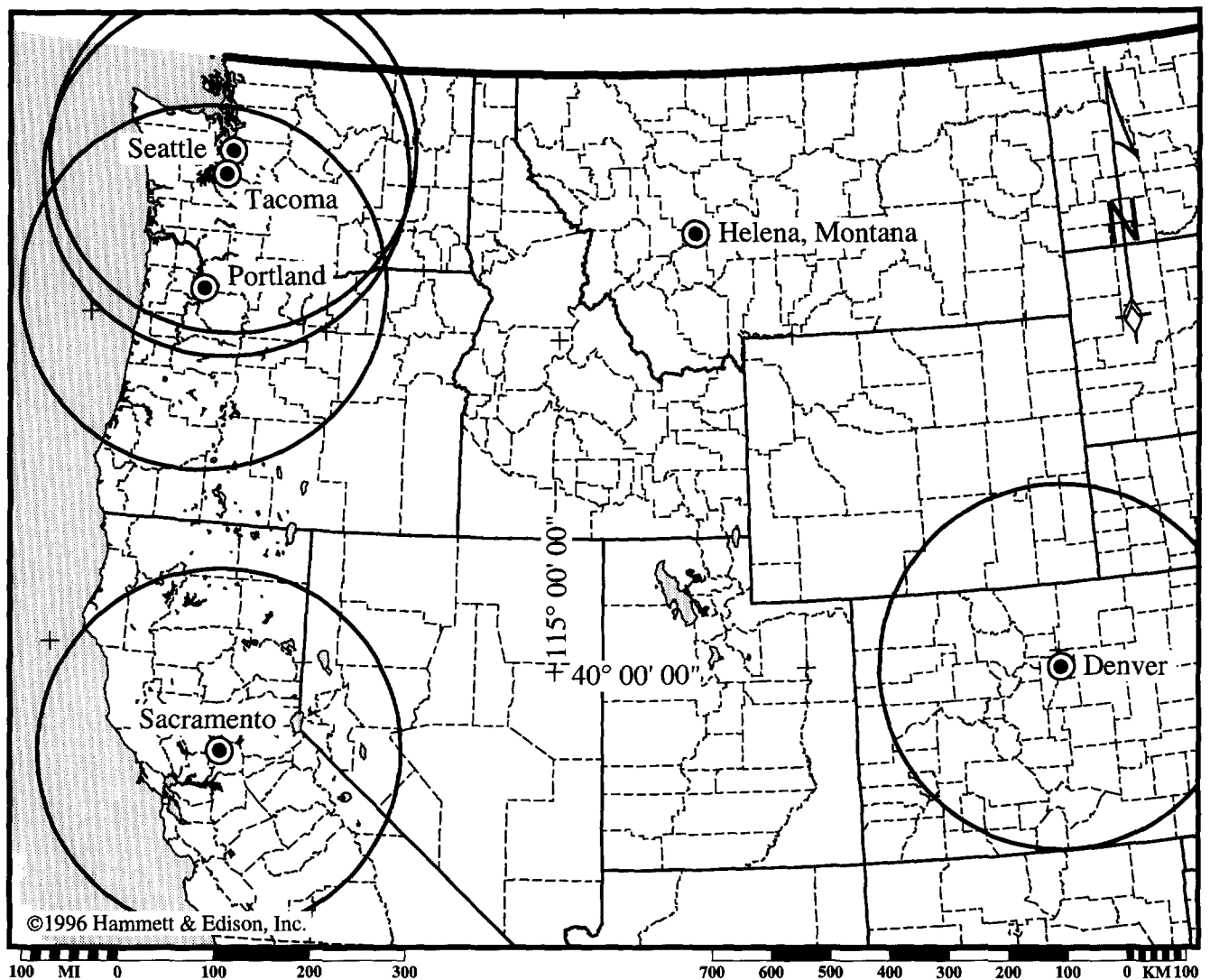
New TV Station • Channel 15 • Helena, Montana

NTSC Allocation Conditions for Channel 15, Helena, Montana



New TV Station • Channel 15 • Helena, Montana

Five Closest ATV Freeze Cities to Helena, Montana



Geographic coordinate marks shown at 5-minute increments. Map data taken from Sectional Aeronautical Charts, published by the National Ocean Survey.